

AMENDED IN SENATE MAY 4, 2005
AMENDED IN SENATE APRIL 21, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 929

Introduced by Senator Kehoe

February 22, 2005

An act to amend ~~Section 82002~~ *Sections 82002 and 82039* of the Government Code, and to amend Section 30325 of *the* Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 929, as amended, Kehoe. California Coastal Commission: administrative actions.

Existing

(1) *Existing* provisions of the Political Reform Act of 1974 generally define "administrative action" to mean the proposal, drafting, development, consideration, amendment, enactment, or defeat by a state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding.

This bill would specify that an "administrative action" for purposes of proceedings before the California Coastal Commission, includes the proposal, drafting, development, consideration, amendment, enactment, or defeat of any rule, regulation, permit action, federal consistency review, appeal, local coastal program, port master plan, public works plan, long-range development plan, categorical or other exclusion from coastal development permit requirements, cease and desist order, restoration order, or any other quasi-judicial or quasi-legislative matter requiring commission action.

~~Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.~~

~~This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.~~

(2) The Political Reform Act of 1974 defines a “lobbyist” as an individual, among other things, whose principal duties as an employee are to communicate with, among others, an agency official for the purpose of influencing legislative or administrative action. The act also defines an “agency official” as any member, officer, employee, or consultant of any state agency who as part of his or her official responsibilities participates in any administrative action in other than a purely clerical, secretarial, or ministerial capacity.

This bill would, for purposes of a quasi-judicial matter before the California Coastal Commission, as specified, provide that an “agency official” only means a member of the commission.

~~The~~

(3) The California Coastal Act of 1976 provides that nothing in the act prohibits any person or any interested person from testifying at a commission hearing, workshop, or other official proceeding, or from submitting written comments for the record on a matter before the commission, as provided.

This bill would require that any person who communicates with the members of the commission or commission staff regarding an administrative action of the commission, as defined, who qualifies as a lobbyist, as defined, is required to comply with specified requirements of the Political Reform Act of 1974, as provided.

~~Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.~~

~~This bill would impose a state-mandated local program by imposing criminal penalties on persons who violate the provisions of this bill.~~

~~The~~

(4) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes with a 2/3 vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a 2/3 vote.

~~The~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 82002 of the Government Code is
2 amended to read:

3 82002. (a) (1) “Administrative action” means the proposal,
4 drafting, development, consideration, amendment, enactment, or
5 defeat by any state agency of any rule, regulation, or other action
6 in any ratemaking proceeding or any quasi-legislative
7 proceeding, which shall include any proceeding governed by
8 Chapter 3.5 (commencing with Section 11340) of Part 1 of
9 Division 3 of Title 2.

10 (2) For purposes of proceedings before the California Coastal
11 Commission, “administrative action” includes the proposal,
12 drafting, development, consideration, amendment, enactment, or
13 defeat of any rule, regulation, permit action, federal consistency
14 review, appeal, local coastal program, port master plan, public
15 works plan, long-range development plan, categorical or other
16 exclusion from coastal development permit requirements, cease
17 and desist order, restoration order, or any other quasi-judicial, or
18 quasi-legislative matter requiring commission action.

19 (b) “Ratemaking proceeding” means, for the purposes of a
20 proceeding before the Public Utilities Commission, any
21 proceeding in which it is reasonably foreseeable that a rate will
22 be established, including, but not limited to, general rate cases,
23 performance-based ratemaking, and other ratesetting
24 mechanisms.

25 (c) “Quasi-legislative proceeding” means, for purposes of a
26 proceeding before the Public Utilities Commission, any
27 proceeding that involves consideration of the establishment of a
28 policy that will apply generally to a group or class of persons
29 including, but not limited to, rulemakings and investigations that
30 may establish rules affecting an entire industry.

1 *SEC. 2. Section 82039 of the Government Code is amended to*
2 *read:*

3 82039. (a) “Lobbyist” means any individual who receives
4 two thousand dollars (\$2,000) or more in economic consideration
5 in a calendar month, other than reimbursement for reasonable
6 travel expenses, or whose principal duties as an employee are, to
7 communicate directly or through his or her agents with any
8 elective state official, agency official, or legislative official for
9 the purpose of influencing legislative or administrative action.
10 An individual is not a lobbyist by reason of activities described in
11 Section 86300.

12 (b) For the purposes of subdivision (a), a proceeding before
13 the Public Utilities Commission constitutes “administrative
14 action” if it meets any of the definitions set forth in subdivision
15 (b) or (c) of Section 82002. However, a communication made for
16 the purpose of influencing this type of Public Utilities
17 Commission proceeding is not within subdivision (a) if the
18 communication is made at a public hearing, public workshop or
19 other public forum that is part of the proceeding, or if the
20 communication is included in the official record of the
21 proceeding.

22 (c) *Notwithstanding Section 82004, for purposes of a*
23 *quasi-judicial matter before the California Coastal Commission,*
24 *as described in paragraph (2) of subdivision (a) of Section*
25 *82002, “agency official,” as used in subdivision (a) of this*
26 *section, shall only mean a member of the California Coastal*
27 *Commission.*

28 ~~SEC. 2:~~

29 *SEC. 3. Section 30325 of the Public Resources Code is*
30 *amended to read:*

31 30325. (a) Nothing in this article prohibits any person or any
32 interested person from testifying at a commission hearing,
33 workshop, or other official proceeding, or from submitting
34 written comments for the record on a matter before the
35 commission. Written comments shall be submitted by mail or
36 delivered to a commission office, or may be delivered to the
37 commission at the time and place of a scheduled hearing.

38 (b) Any person who communicates with ~~the commission or~~
39 ~~commission staff~~ *members of the commission* regarding an
40 administrative action of the commission, as defined in

1 subdivision (a) of Section 82002 of the Government Code, and
2 who qualifies as a lobbyist, as defined in subdivision (a) of
3 Section 82039 of the Government Code, shall comply with the
4 requirements of Chapter 6 (commencing with Section 86100) of
5 Title 9 of the Government Code.

6 ~~SEC. 3.~~

7 *SEC. 4.* No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the
12 penalty for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition of a
14 crime within the meaning of Section 6 of Article XIII B of the
15 California Constitution.

16 ~~SEC. 4.~~

17 *SEC. 5.* The Legislature finds and declares that the provisions
18 of this act further the purposes of the Political Reform Act of
19 1974 within the meaning of subdivision (a) of Section 81012 of
20 the Government Code.